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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,683	04/21/2000	Lawrence Xavier Webb, M.D.	F. 003	6497

7590

01/29/2003

Hopgood Calimafde Kalil & Judlowe LLP
60 East 42nd Street
New York, NY 10165

EXAMINER

MANTIS MERCADER, ELENI M

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/553,683

Applicant(s)

WEBB, M.D., LAWRENCE XAVIER

Examiner

Eleni Mantis Mercader

Art Unit

3737

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 28 and 29.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,5-8,11,12,15-18 and 20-25.

Claim(s) withdrawn from consideration: 26 and 27.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Marvin M. Lateef
Supervisory Patent Examiner
Group 3700

Continuation of 2. NOTE: With respect to the arguments of amended claim 23, stating that "Mosby does not disclose "localization" without the "box-like apparatus", Examiner invites applicant's attention to Mosby's claims 1-3 and 6-7 wherein Mosby claims localization without the box-like apparatus. Mosby does not claim the box-like apparatus until claim 4 .

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the comments regarding claim 11, Examiner maintains that as per applicant's definition of shrink-fitted: "formed of expandable material and sized to have an internal volume which is less than the volume of the elongate body enabling said drape to be shrink-fitted onto the body", nothing more is disclosed other than a stretchable material capable of conforming onto the body of interest having thereon a grid. Mosby'985 teaches a "conforming, flat, pliable sheet with a grid display" which is conformed onto the breast, which is in essence a stretchable material conformed onto the breast . With respect to the "longitudinal extending radial cutout", Mosby teaches a cutout, such as one centrally located along or lengthwise, and therefore longitudinally, see line 11 of Figure 1 and the cutout for the nipple along line 11.